

## REMARKS/ARGUMENTS

Claims 1-19 are presently pending. Claim 17 has been amended. Claims 1, 5, 9 and 12 are independent claims.

In view of the following remarks, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections.

### Claim Objection

Claim 17 has been objected to because of informalities. Specifically, the Examiner indicated that the term “detected,” should be changed to --detected light,--. In response, Applicant has amended claim 17 according to the Examiner’s suggestion. Thus, withdrawal of this objection is respectfully requested.

### Rejection Under 35 USC §102

Claims 5, 12-16, and 18 stand rejected under 35 USC §102(b) as being anticipated by PCT Publication No. WO 97/42631 to Mochizuki et al.

Initially, Applicants note that this international PCT publication was not published in the English language. Thus, this PCT publication does not qualify as prior art under §102(b). However, Applicants note that U.S. Patent No. 6,172,958 to Mochizuki et al. (hereafter “Mochizuki”), which claims priority to the PCT application, has a §102(e) date of January 9, 1998. Thus, Applicant respectfully submits that only the U.S. patent issued to Mochizuki may be applied against the present application, under 35 USC §102(e).

However, if the Examiner had properly applied Mochizuki in a §102(e) rejection, it is respectfully submitted that such a rejection would be deficient because none of the present claims are anticipated by Mochizuki. Specifically, Applicant points out that MPEP §2131 sets forth the following:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claims.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

It is respectfully submitted that Mochizuki does not set forth each and every element as defined in independent claims 5 and 12.

Independent claim 5 specifically recites “turning said lens holder on a first **axis perpendicular to said support shaft**” (emphasis added). Similarly, independent claim 12 recites an element that is “configured to turn said lens holder on a first axis perpendicular to said support shaft.” It is respectfully submitted that Mochizuki fails to disclose this feature in claims 5 and 12.

On page 3 of the present Office Action, the Examiner asserts that Mochizuki teaches this feature because coil 13 of Figs. 7 and 29 “turns the lens holder 8 in the direction T which is perpendicular to the vertical axis.” In making this assertion, the Examiner apparently ignores the actual language in claims 5 and 12, which recite turning the lens holder **on an axis** perpendicular to the support shaft. Claims 5 and 12 do **not** recite turning the lens holder **in a direction** perpendicular to the support shaft.

In column 14, lines 24-31, Mochizuki specifically teaches that coil 13 causes the lens holder 8 to “rotate around the **axis of the support shaft 14**.” Thus, Mochizuki

directly **teaches away** from the claimed feature of turning the lens holder on an axis perpendicular to the support shaft. Instead, Mochizuki specifically discloses that coil 13 turns the lens holder around the support shaft. Thus, Mochizuki's lens holder turns on an axis **parallel** to the support shaft.

Since Mochizuki fails to disclose each claimed feature in independent claims 5 and 12, Applicant respectfully submits that these claims are not anticipated by Mochizuki. For this reason, it is respectfully submitted that claims 5 and 12 are allowable over Mochizuki, and claims 13-16 are allowable at least by virtue of their dependency on claim 12. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this rejection.

#### Rejections Under 35 USC §103

Claim 17 stands rejected under 35 USC §103(a) as being unpatentable over Mochizuki in view of U.S. Patent No. 6,044,048 to Oinoue et al. (hereafter "Oinoue"). Applicant respectfully submits that Oinoue fails to remedy the deficiencies of Mochizuki as set forth above in connection with independent claim 12. Accordingly, it is respectfully submitted that claim 17 is allowable at least by virtue of its dependency on claim 12.

Claim 19 stands rejected under 35 USC §103(a) as being unpatentable over Mochizuki in view of U.S. Patent No. 6,574,186 to Nii et al. (hereafter "Nii"). It is respectfully submitted that Nii fails to remedy the deficiencies of Mochizuki discussed

above in connection with independent claim 12. Accordingly, Applicant respectfully submits that claim 19 is allowable at least by virtue of its dependency on claim 12.

#### Allowable Subject Matter

Applicant acknowledges, with thanks, the Examiner's indication that claims 1-4 and 6-11 have been allowed. On page 10 of the present Office Action, the Examiner provides a statement of the reasons for allowance of these claims. While Applicant agrees that the cited art of record does not disclose or teach the features listed by the Examiner, Applicant wishes to emphasize that it is the claims as a whole, including the various interrelationships and interconnections between the various claimed elements, which are not taught or suggested by the prior art.

#### Conclusion

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above remarks, the Examiner is respectfully requested to reconsider the outstanding claim rejections and issue a Notice of Allowance in the present application.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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